

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

WP(C).No. 28038 of 2007(K)

PETITIONERS:

- 1. MOHAN C.,
OMANA BUNGLOW, FATHIMAPURAM P.O.,
CHANGANASSERY, KOTTAYAM DISTRICT.**
- 2. MINI MOHAN,
OMANA BUNGLOW, FATHIMAPURAM P.O.,
CHANGANASSERY, KOTTAYAM DISTRICT.**
- 3. OMANA CHELLAPPAN,
OMANA BUNGLOW, FATHIMAPURAM P.O.,
CHANGANASSERY, KOTTAYAM DISTRICT.**

**BY ADV. SRI.JOSEPH SEBASTIAN PURAYIDAM
SMT.MABLE.C.KURIAN**

RESPONDENTS:

- 1. THE KOTTAYAM DISTRICT CO-OPERATIVE
BANK LIMITED, HEAD OFFICE, KOTTAYAM,
REPRESENTED BY ITS SECRETARY.**
- 2. THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL), KOTTAYAM.**

**R1 BY ADV. SHRI SUNIL CYRIAC, SC.
R2 BY GOVERNMENT PLEADER (SMT. ANU SIVARAMAN)**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

K.M.JOSEPH, J.

WP.(C) No.28038 of 2007

Dated this the 20th day of September, 2007

JUDGMENT

Petitioners have approached this court seeking a direction to allow the petitioners to settle the amount due from them within a period of five months by effecting part sale of the property mortgaged and to grant the benefits under one time settlement. They also seek a direction not to take any coercive step pursuant to Exts.P1 to P3 at least for five months. A direction is also sought to dispose of Ext.P10. Petitioners have availed loan from the first respondent Bank. Proceedings have been taken under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act. According to the petitioners they have entered into an agreement for sale of part of the property, which is subject matter of the mortgage in favour of the Bank and by sale of the said property the amounts can be cleared. It is pointed out that the advance amount had already been remitted to the Bank.

2. I heard learned counsel for the Bank also. He points that the

petitioners are not entitled to the benefit of one time settlement. He points out that going by the agreement the sale has to be finalised on 1.1.2008.

Having regard to all facts, the writ petition is disposed of granting time to the petitioners till 10.1.2008 to clear off the entire amount due to the Bank with interest. This will be subject to the condition that the petitioners will clear the amount due to the Bank before the execution of the sale deed. This is in view of Section 13(7) of the Act. This will not stand in the way of the Bank considering waiving of penal interest within a period of one month from today, if the petitioners approach the first respondent within one week from today in this regard. Proceedings against the petitioners will be kept in abeyance till 10.1.2008.

(K.M. JOSEPH, JUDGE)

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